

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ADVANCED PHYSICIANS, S.C.,)	
)	
Plaintiff,)	
)	
VS.)	CIVIL ACTION NO.
)	
NATIONAL FOOTBALL LEAGUE,)	3:19-CV-02432-G
)	
Defendant.)	
)	

MEMORANDUM OPINION AND ORDER

Before the court is the defendant National Football League (“NFL”)’s motion for leave to amend its motion to dismiss. Motion for Leave to Amend (docket entry 45). For the reasons stated herein, the motion is **GRANTED**.

I. BACKGROUND

The plaintiff Advanced Physicians, S.C. (“Advanced”) filed its original complaint in an Illinois state court on March 15, 2019. Original Complaint (docket entry 1-1). On May 2, 2019, the NFL filed a timely notice of removal in the United States District Court for the Northern District of Illinois, Eastern Division, and the case was assigned to the Honorable Manish S. Shah. Notice of Removal (docket entry 1). On May 9, 2019, the NFL filed a motion to dismiss for failure to state a claim. Motion to Dismiss (docket entry 10). On the same day, the NFL filed a

motion to transfer the case to the Northern District of Texas. Motion to Transfer (docket entry 13). The following month, on June 3, 2019, Advanced filed a motion to remand the case to state court. Motion to Remand (docket entry 17).

On June 26, 2019, the NFL filed a memorandum in opposition to Advanced's motion to remand. Memorandum in Opposition (docket entry 27). On the same day, Advanced filed a response to the NFL's motion to dismiss. Response to Motion to Dismiss (docket entry 28). Also on the same day, Advanced filed a response to the NFL's motion to transfer. Response to Motion to Transfer (docket entry 29). On July 10, 2019, the NFL filed a reply to Advanced's response to the NFL's motion to dismiss. Reply on Motion to Dismiss (docket entry 30). On the same day, the NFL also filed a reply to Advanced's opposition to the NFL's motion to transfer. Reply on Motion to Transfer (docket entry 31). Also on the same day, Advanced filed a reply to the NFL's opposition to Advanced's motion to remand. Reply on Motion to Remand (docket entry 32).

On October 10, 2019, Judge Shah denied Advanced's motion to remand and granted the NFL's motion to transfer. Memorandum Opinion and Order (docket entry 36). The next day, on October 11, the case was transferred to the Northern District of Texas, Dallas Division. Case Transfer (docket entry 37).

Some time after the case was transferred to the Northern District of Texas, the plaintiff filed in the Northern District of Illinois a motion to certify the order denying

remand. Appendix in Support of Defendant's Motion for Leave to Amend at App.

14.¹ Judge Shah held a hearing denying the motion, and stated that even if the court still had jurisdiction over the case, the entire case would have been dismissed because it is preempted by federal law. *Id.*

Following the transfer, the NFL filed the instant motion for leave to file an amended motion to dismiss and memorandum/brief in support on December 3, 2019. Motion for Leave to Amend. Advanced filed a response on December 26, 2019, and, in that response, improperly added a motion to re-transfer the case back to the Northern District of Illinois so that the district court could dismiss it and Advanced could appeal to the Seventh Circuit.² Response to Motion for Leave to Amend (docket entry 47). The NFL then filed a reply to Advanced's response to the NFL's motion for leave to amend on January 9, 2020. Reply to Motion for Leave to Amend (docket entry 48). It also included a response to Advanced's motion to re-transfer. *Id.* The defendant's motion is now ripe for review.

II. ANALYSIS

It is evident that the NFL should be allowed to amend its motion to dismiss.

¹ Page numbers for the Appendix in Support refer to the numbers on the bottom right hand corner of the document.

² Pursuant to Judge Fish's rules, parties shall not "submit a response and a motion together in one document." Judge Fish Local Rule II. A. 5. (<http://www.txnd.uscourts.gov/judge/senior-district-judge-joe-fish>). Nevertheless, the court will entertain Advanced's motion to re-transfer. Finding no compelling reason that the case should be re-transferred, the court denies the plaintiff's motion.

When the plaintiff filed this action, the case was pending in the Northern District of Illinois, and the defendant filed its motion to dismiss citing law from the Seventh Circuit. Motion for Leave to Amend at 1. The defendant now wishes to cite relevant Fifth Circuit law, as well as “clarify for the Court and the parties the issues that remain pending in light of Judge Shah’s rulings, including the preemption ruling.” Motion for Leave to Amend ¶ 8. The court does not find any reason that the defendant should not be allowed to amend its motion to dismiss, or any reason that the plaintiff would be prejudiced by allowing such amendment.

III. CONCLUSION

For the reasons stated above, the plaintiff’s motion to re-transfer is **DENIED**, and the defendant’s motion for leave to amend is **GRANTED**. The defendant shall have 14 days from the date of entry of this order to file an amended motion to dismiss.

SO ORDERED.

April 13, 2020.



A. JOE FISH
Senior United States District Judge